

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of	)	
	)	
Price Cap Performance Review for Local	)	CC Docket No. 94-1
Exchange Carriers	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	

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**COMMENTS OF IOWA TELECOM**

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IOWA TELECOMMUNICATIONS  
SERVICES, INC.

James U. Troup  
Robert H. Jackson  
Arter & Hadden LLP  
1801 K Street, N.W., Suite 400K  
Washington, D.C. 20006-1301  
Phone: 202-775-7100  
Fax: 202-857-0172

Its attorneys

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## Summary

Iowa Telecom<sup>\*</sup> was formed in 1999 to acquire all of GTE's access lines in Iowa and will soon begin providing telecommunications services to GTE's customers in Iowa. At the present time, Iowa Telecom is considering whether it should elect to remain under price cap regulation for its interstate access services by adopting GTE's interstate access tariffs. At this time, Iowa Telecom is leaning towards making an election for price cap regulation. However, some of the FCC's proposals set forth in the *Further Notice* could, if adopted, distort price cap regulation into a grotesque form of rate-of-return regulation that discourages economic efficiencies, which would be harmful to customers in rural markets. Adoption of unfair price cap rules could well lead Iowa Telecom to join the ranks of many other LECs who have moved to rate-of-return regulation after a merger or acquisition. This movement of smaller LECs to rate-of-return regulation is a strong indicia that the FCC should consider the establishment of a lower X-factor for smaller and more rural LECs (*i.e.*, mid-sized LECs that serve fewer than 2% of the nation's access lines) to encourage more participation in price cap regulation.

The FCC should prescribe an X-factor in the middle of the FCC's "reasonable range," based on the FCC's 1997 TFP study. Represcription of an X-factor based on the FCC's other suggested methodologies would likely constitute unlawful retroactive ratemaking. The FCC should not attempt to prescribe a separate X-factor, including any allowance for the CPD for the going-forward period, until it completes the next regularly scheduled price cap performance review because there is new economic evidence that the "vast productivity gap" between

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<sup>\*</sup> All abbreviations are explained in the body of the document.

telecommunications carriers and other companies may have closed. However, the FCC should also prescribe a separate and lower X-factor for mid-sized LECs that lack the economies of scale possessed by the largest price cap LECs.

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Iowa Telecommunications Services, Inc. ("Iowa Telecom"), by its attorneys, respectfully submits its comments in response to the Federal Communications Commission's ("FCC") *Further Notice* in this matter.<sup>1</sup> In its *Further Notice*, the FCC seeks comment on how it should represcribe an X-factor (productivity offset) for price cap local exchange carriers ("LECs"). The most recently prescribed X-factor of 6.5%<sup>2</sup> was reversed and remanded to the FCC by the court<sup>3</sup> because the FCC failed to justify its reasonableness.

The FCC seeks comments on the prescription of two separate X-factors to address: 1) retroactively, the period affected by the court remand (July 1, 1997 to June 30, 2000); and 2) prospectively, the period from July 1, 2000 forward. Alternatively, the FCC is considering a

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<sup>1</sup> *Price Cap Performance Review for Local Exchange Carriers and Access Charge Reform*, Further Notice of Proposed Rulemaking, CC Docket Nos. 94-1 and 96-262, FCC 99-345 (rel. Nov. 15, 1999) ("*Further Notice*").

<sup>2</sup> *Price Cap Performance Review for Local Exchange Carriers and Access Charge Reform*, Fourth Report and Order in CC Docket No. 94-1 and Second Report and Order in CC Docket No. 96262, 12 FCC Rcd 16642 (1997) ("*1997 Price Cap Review*").

<sup>3</sup> *USTA v. FCC*, 188 F.3d 521 (D.C. Cir. 1999).

single X-factor to cover the combined period.<sup>4</sup> In addition, the FCC seeks comments on whether it should reset access charges, on a forward-looking basis, for price cap LECs “to a level that is consistent with any X-factor prescription in order to rebalance the sharing of benefits of price caps between LECs and their customers.”<sup>5</sup>

Iowa Telecom supports the prescription of an X-factor in the middle of the FCC’s “reasonable range,” based on the FCC’s 1997 total factor productivity (“TFP”) study. Represcription of an X-factor based on the FCC’s other suggested methodologies would likely constitute unlawful retroactive ratemaking. The FCC should not attempt to prescribe a separate X-factor, including any allowance for the consumer productivity dividend (“CPD”) for the going-forward period, until it completes the next regularly scheduled price cap performance review because there is new economic evidence that the “vast productivity gap” between telecommunications carriers and other companies may have closed.

## **Background**

Iowa Telecom was formed in 1999 by Iowa Network Services, Inc. (“INS”) and Touch America, Inc. (“Touch America”) to acquire all of GTE Telephone Company of the Midwest’s (“GTE”) access lines in Iowa. Iowa Telecom was the successful bidder for GTE’s operations in Iowa, which comprises 296 exchanges and approximately 280,400 access lines spread throughout Iowa.<sup>6</sup> Upon receipt of all necessary regulatory approvals and after closing

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<sup>4</sup> *Further Notice* at ¶2.

<sup>5</sup> *Id.*

<sup>6</sup> Iowa Telecom’s operations will be very rural in nature. It will serve only two cities with populations that exceed 10,000: Newton (15,371) and Fairfield (10,332), based on the U.S. Bureau of the Census’ July 1, 1998 population estimates. Indeed, Iowa Telecom would qualify for a rural telephone company exemption to the interconnection and resale requirements of Section 251(c) of the Communications Act of 1934, as amended (“Act”), 47 U.S.C. §251(c).

the transaction with GTE, Iowa Telecom will begin providing telecommunications services to GTE's customers in Iowa.

INS was formed in 1989 by 128 small incumbent local exchange carriers ("ILECs") to provide centralized equal access, including intraLATA equal access, to rural Iowa. Subsequently, INS and its now 147 small ILEC partners in Iowa have deployed a fully redundant pair of access tandem switches and 1900 miles of fiber optic cable throughout the state. In addition to 1+ dialing to their interexchange carrier ("IXC") of choice, INS' network offers end user customers access to such services as ATM and frame relay services, DS1 and DS3 high-capacity services, enhanced fax services, ISDN access, video conferencing services and Internet gateway services.<sup>7</sup>

Touch America is a fully owned subsidiary of Montana Power Company ("MPC"). Touch America grew from MPC's efforts to provide reliable telecommunications services to itself, which began in 1939. MPC built its own microwave "bypass" network in 1956-58 and installed the first digital phone system in Montana in 1978. In 1983, MPC used its internal telecommunications expertise to offer competitive services to other customers and then formed what is now known as Touch America in 1992. Touch America provides Internet access, long distance, private line services and telephone equipment to customers throughout the northwestern United States.

At the present time, Iowa Telecom is considering whether it should elect to remain under price cap regulation for its interstate access services by adopting GTE's interstate access tariffs,<sup>8</sup>

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<sup>7</sup> Also, INS is the general partner in Iowa Wireless Services, L.L.P. ("IWS"), which provides personal communication service ("PCS") covering 2.3 million residents of Iowa, Illinois and Nebraska.

<sup>8</sup> GTE offers interstate access services to its Iowa customers through two separate tariffs, GTE Operating Companies Tariff F.C.C. No. 1 and GTE System Companies Tariff F.C.C. No. 1.

pursuant to section 61.171 of the FCC's rules.<sup>9</sup> Price cap regulation appears to be a superior form of regulation than traditional rate-of-return regulation from an economic perspective – it guarantees IXC's access charge price reductions in real terms and provides LECs with the ability to earn higher profits by becoming more efficient. At this time, Iowa Telecom is leaning towards making an election for price cap regulation. However, some of the FCC's proposals set forth in the *Further Notice* could, if adopted, distort price cap regulation into a grotesque form of rate-of-return regulation that discourages economic efficiencies, which would be harmful to customers in rural markets. Adoption of unfair price cap rules could well lead Iowa Telecom to join the ranks of many other LECs who have moved to rate-of-return regulation after a merger or acquisition.<sup>10</sup> This movement of smaller LECs to rate-of-return regulation is a strong indicia that the FCC should consider the establishment of a lower X-factor for smaller and more rural LECs (*i.e.*, mid-sized LECs that serve fewer than 2% of the nation's access lines) to encourage more participation in price cap regulation.

### **Limited Regulation Results in Robust Telecommunications Networks in Rural Markets**

The FCC has been concerned about the development of robust telecommunications networks in rural markets<sup>11</sup> and continues to look for ways to stimulate investment in new and

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<sup>9</sup> 47 C.F.R. §61.171.

<sup>10</sup> See, *e.g.*, *Alltel Corporation; Petition for Waiver of Section 61.41 of the Commission's Rules and Applications for Transfer of Control*, Memorandum Opinion and Order, CCB/CPD 99-1, FCC 99-156 (rel. Sept. 3, 1999) (approving a waiver to permit Aliant Telecommunications, Inc. to revert to rate-of-return regulation after it was acquired by Alltel Corporation); *Kendall Telephone, Inc. and Wisconsin Bell, Inc.; Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules; Kendall Telephone, Inc. Petition for Waiver of Sections 61.41(c)(2), 69.3(e)(6), and 69.3(g)(2) of the Commission's Rules*, Memorandum Opinion and Order, CC Docket No. 96-45, DA 98-1733 (rel. Sept. 15, 1998); *Alltel Service Corporation Petition for Waiver of Section 61.41 of the Commission's Rules*, Order, 8 FCC Rcd 7054 (1993).

<sup>11</sup> See, *e.g.*, *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the*



advanced technologies. One of the best ways to stimulate advanced telecommunications investment in rural markets is for the FCC to temper its regulatory policies for carriers that serve rural markets. The application of restrained regulation does produce increased investments in rural markets and the deployment of high-quality and state-of-the-art services for small town customers.

Iowa presents a prime example of the validity of this premise. The State of Iowa does not apply rate regulation to any cooperatively owned telephone company or any LEC that serves fewer than 15,000 access lines.<sup>12</sup> While these small LECs must still file tariffs with the Iowa Utilities Board and are subject to other regulations, such as service quality rules, they are free to set their own prices and their earnings levels are not constrained. Despite the lack of price regulation for intrastate services, rates for local service remain affordable in Iowa, as measured by the percentage of Iowans with telephone service in their homes. In November 1983, 95.4% of Iowa's household had telephone service and this figure has increased to 96.3% in July 1999.<sup>13</sup> Iowa's rate of telephone service penetration exceeds the national average of 94.4% as measured in July 1999.<sup>14</sup> The 1997 average monthly service rate for residential customers for those small Iowa LECs that borrow from the Rural Utilities Service ("RUS") of the U.S. Department of Agriculture, most of which are not rate regulated in Iowa, was only \$9.12.<sup>15</sup>

In addition, Iowa's small LECs have invested heavily in new technology to deliver advanced services to their customers. Many of these small LECs serve fewer than 1000 access

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*Telecommunications Act of 1996*, Notice of Inquiry, 13 FCC Rcd 15280 (1998) and Report, 14 FCC Rcd 2398 (1999).

<sup>12</sup> IOWA CODE §476.1.

<sup>13</sup> Industry Analysis Division, Common Carrier Bureau, "Telephone Subscribership in the United States," at Table 2 (Oct. 1999).

<sup>14</sup> *Id.* at Table 1.

<sup>15</sup> Industry Analysis Division, Common Carrier Bureau, "Reference Book of Rates, Price Indices and Expenditures

lines in small towns and farming communities and are members of the National Exchange Carrier Association's ("NECA") traffic- and non-traffic-sensitive pools, receiving average schedule settlements. However, many of these same rural LECs offer telephone service through networks that consist of a digital switch, SS7 capability, and fiber optic toll connections. Small Iowa LECs are often installing fiber optic cables in their local networks. A vast number of INS member LECs offer cellular or PCS services to their customers, along with wired and wireless cable television services.

In cooperation with INS, many of its member LECs offer their local customers a variety of Internet access services. These include unlimited local dial-up access at speeds up to 56 Kbps for \$21.95 per month, which also includes 10 megabytes of disk space and web-hosting services. Many rural residents of Iowa can also obtain ISDN-based Internet access or even dedicated Internet access at speeds that range from 56 Kbps to 1.544 Mbps. The same dedicated Internet access services are available at discounted rates from INS' member LECs to not-for-profit education, library, or hospital sites.

The financial commitment of non-rate-regulated LECs serving small towns and rural areas of Iowa has brought state-of-the-art networks and services at affordable prices to their customers. Iowa Telecom intends to extend similar technology and services to its customers – assuming that regulatory barriers are not created. The FCC should avoid the creation of such barriers in its current review of the X-factor for price cap LECs.

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for Telephone Service," at Table 1.21 (June 1999)

## Represcription of the Historical X-Factor

The FCC requests comments on three alternative methods for prescribing the historical component of the X-factor. The first method would simply represcribe a new X-factor based on the reasonable range of factors determined by the FCC's earlier (1997) study of total factor productivity. The second method would replace the FCC's 1997 TFP study with a new 1999 TFP study. The third approach would have the FCC rely on its "accumulated experience with price cap regulation" to determine an X-factor that, "if it had been prescribed from the inception of price caps, would leave capital compensation at the competitive level at the end of the study period."<sup>16</sup>

The FCC should adopt its first proposed approach on remand and select a historical X-factor at the mean or median of the reasonable range (5.2-6.3%) for historical productivity. It is clear that, as a matter of law, the FCC may not deviate from the Court's remand order. Any such deviation constitutes further legal error.<sup>17</sup> The FCC must use decision-making "criteria more discriminating than justice and arbitrariness" to justify its rate-making rule.<sup>18</sup> Unless the FCC can supply valid justification for its selection of a higher X-factor from the 1997 study, it must select an X-factor that it can justify, which in this case, would be in the mid-point of the reasonable range of historical productivity.

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<sup>16</sup> *Further Notice* at ¶22.

<sup>17</sup> *Sullivan v. Hudson*, 490 U.S. 884, 886 (1989).

<sup>18</sup> *In Re Permian Basin Area Rate Cases*, 390 U.S. 789, 790, *rehearing denied sub nom. Bass v. FPC*, 392 U.S. 917 (1968).

***Selection of Either of the FCC's Second and Third Methods for Represcribing the Historical X-Factor Would Constitute Unlawful Retroactive Ratemaking***

It would be inconsistent with the Administrative Procedure Act (“APA”)<sup>19</sup> for the FCC to use new studies or methods of analysis to develop a lower retroactive X-factor. “Retroactivity is not favored in the law.”<sup>20</sup> Consequently, “a statutory grant of legislative rulemaking authority will not, as a general matter, be understood to encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms.” *Bowen v. Georgetown Univ. Hosp.*<sup>21</sup>

*Bowen* itself arose in the context of an agency’s retroactive promulgation of cost-limit rules for Medicare reimbursement to hospitals. The situation came about in *Bowen* because the agency’s first effort to prospectively establish cost-limit rules was invalidated on judicial review. Thus, that agency action on remand took place after passage of some of the period during which hospitals were subject to the cost-limit rules that were later invalidated. Justice Scalia’s concurrence in *Bowen* pointed out that the APA definition of “rule” (5 U.S.C. §551(4)) is limited to agency action with only prospective consequences, including “the approval or prescription for the future of rates.” Justice Scalia’s textual analysis of the APA thus disfavored “retroactivity in the sense ... of altering the past legal consequences of past actions.”

*Bowen* is applicable to the X-factor represcription. (1) Congress has not expressly given the FCC authority to engage in retroactive rulemaking on this issue,<sup>22</sup> (2) Congress has not expressly given the FCC general rulemaking authority that includes power to promulgate rules

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<sup>19</sup> 5 U.S.C. §§551 *et seq.*

<sup>20</sup> *Greene v. United States*, 376 U.S. 149 (1964).

<sup>21</sup> 488 U.S. 204 (1988).

<sup>22</sup> See, e.g., *Arizona Grocery Co. v. Atchison, Topeka and Santa Fe Rwy. Co.*, 284 U.S. 370 (1932); *American Tel. & Tel. Co. v. FCC*, 836 F.2d 1386, 1394-95 (D.C. Cir. 1988) (Starr, J., concurring).

retroactively, (3) the APA is applicable to the agency action, and (4) the FCC is operating via its rulemaking authority and not through adjudication.

The FCC did not prescribe an interim X-factor in its *1997 Price Cap Review Order*. If it would have taken such action, it might be able to reexamine the matter retroactively now. See *Regions Hospital v. Shalala*.<sup>23</sup> In that case, the Court permitted the Department of Health and Human Services (“HHS”) to retroactively adjust a hospital’s expenses for purposes of claiming a Medicare reimbursement. However, HHS had not sought to apply the new rule to years for which legal consequences had already been finally established (*i.e.*, falling outside the window of adjustment).<sup>24</sup> Thus, the Court affirmed the adjustment to the open time period. In the instant case, the FCC must simply correct its errors and select a supportable X-factor for the historic period.

Moreover, the FCC has not complied with Section 204 of the Act’s suspension and accounting order requirements. Accordingly, the FCC has no authority under the Act to prescribe an X-factor that would require any price cap LEC to make any retroactive refunds of or offsets to the filed access charges that were based on the existing price cap rules.<sup>25</sup>

### ***Higher Profits Are Consistent with the Economic Theory of Price Cap Regulation***

The FCC’s X-factor proposals for both the historical and going-forward periods are premised on an assumption that high profit levels equate to excessive rates. That assumption is not only wrong from basic economic theory, but is also contradicts the FCC’s own rationale for price caps. The FCC has stated as follows:

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<sup>23</sup> 118 S.Ct. 909 (1998).

<sup>24</sup> See also, *Lincoln Tel. & Tel. Co. v. FCC*, 659 F2d 1092 (D.C. Cir. 1981) (The FCC had statutory authority to prescribe interim rates for interconnection that were subject to true-up.)

The foremost advantage of price cap regulation is that it creates clear incentives for the regulated firm to produce its services efficiently. This incentive effect results from the carrier's recognition that every dollar it saves through cost-cutting will not automatically be recaptured by the regulator, as it is, in principle, under rate-of-return regulation. The prospect of the carrier's retaining the benefits of its own efficiency-enhancing activities can be expected to result in lower overall costs under price caps. Thus, prices to consumers need not be higher for the firm to earn greater profits, since higher profits may be obtained entirely from cost savings induced by price caps. Even if consumers were no worse off than before, an increase in profits represents a true gain to the economy, since the same output is now being produced at less cost. Moreover, as we discuss more fully below, the price cap plan we are proposing also is designed to make consumers better off by forcing carriers to share with consumers a portion of the benefits obtained through efficiency gains.<sup>26</sup>

Under the requirements of the APA, the FCC may not simply reverse this policy by limiting profit levels unless it can also provide a reasoned justification for its about-face.<sup>27</sup>

It would be unfair for the FCC to retroactively adjust its regulatory framework by recapturing what it styles as "excess profits." Those price cap LECs that have earned higher levels of profits have done so by "playing according to the rules" and should not be penalized retroactively. Further, the actual earnings levels of many price cap LECs that were calculated with the 6.5% X-factor have been below 10%, which constitutes strong evidence that such an X-factor is a very stringent hurdle for price cap LECs. For example, the FCC's report on price cap LECs' preliminary earnings results<sup>28</sup> for 1998 demonstrates interstate earnings of only 8.2% for

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<sup>25</sup> *Illinois Bell Tel. Co. v. FCC*, 966 F.2d 1478 (D.C. Cir. 1992).

<sup>26</sup> *Policy and Rules Concerning Rates for Dominant Carriers*, Further Notice of Proposed Rulemaking, 3 FCC Rcd 3195, 3254 (1989).

<sup>27</sup> *Sea Robin Pipeline Co. v. FERC*, 127 F.3d 365, 369 (5<sup>th</sup> Cir. 1997); *Smith Steel Casting Co. v. Brock*, 800 F.2d 1329, 1336 (5<sup>th</sup> Cir. 1986); *Greater Boston T.V. Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 923 (1971).

<sup>28</sup> Industry Analysis Division, Common Carrier Bureau, "Rate of Return Summary 1992 Through 1998" (May

Southwestern Bell Telephone Company and only 8.54% for Bell Atlantic North (NYNEX). Several of GTE's study areas earned single digit returns for its interstate access charges, with GTE Northwest (West Coast California) incurring a negative return of more than 5%.

### **The Current Price Cap Formula Has Caused Significant Reductions in Access Charges**

One of the assumptions that appears to underlie the FCC's proposals for handling the price cap X-factor on remand is that end user customers did not receive an adequate share of the productivity gains made by price cap LECs.<sup>29</sup> That assumption does not, however, withstand scrutiny. The price cap formula itself ensures that access charges decrease annually, at least in real terms, and it also includes an X-factor that is greater than the overall increases in productivity in the entire American economy. For example, even the lowest point (5.2%) in the FCC's 1997 "zone of reasonableness," from which it selected the 6.5% X-factor, exceeds current measures of productivity in the national economy. For example, the United States Bureau of Labor Statistics recently released its calculation of an important national productivity factor—output per hour for all workers—for the third quarter of 1999. That rate, which is the highest rate in seven years, was 4.9%.<sup>30</sup>

The current price cap formula will continue to lead to significant reductions in access charges. The most direct way to ensure that these reductions in access charges benefit end user customers is for the FCC to require IXCs to demonstrate that they have passed along the access charge reductions to consumers.

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1999).

<sup>29</sup> See, e.g., *Further Notice* at ¶42.

<sup>30</sup> "Worker Productivity Soars," *Washington Post*, Dec. 8, 1999 at E2.

## Prescription of a Going-Forward X-Factor, Including the CPD

The FCC should not reset the X-factor, on a forward-looking basis, to become effective on July 1, 2000. Because there is no reasonable basis for taking such action at this time, any such consideration of a new X-factor or CPD should be undertaken at the next price cap performance review. One of the key assumptions underlying the price cap regulatory formula has been that the telecommunications industry's productivity significantly exceeds that of the American economy as a whole. For example, the FCC has stated:

A number of studies demonstrate that the telecommunications sector has been more productive than the economy as a whole. In evaluating how large to make the productivity factor, we have examined a number of long term historical studies of pre-divestiture Bell System productivity and concluded that, on a long term basis, productivity has been approximately 2.1 percent per year higher than the general economy. Data from the more recent period, i.e., the 1970s and 1980s, have tended to be slightly higher than the number suggested by the long term studies.<sup>31</sup>

This fundamental assumption may no longer be true. As noted above, the Bureau of Labor Statistics has reported a significant increase in national productivity, as measured by output per worker. The December 8, 1999, *Washington Post* article indicated that productivity "grew at the fastest rate in seven years in the third quarter" [of 1999.]<sup>32</sup> Further, Martin Baily, chairman of the President's Council of Economic Advisers, viewed the economy's strong productivity growth at this time in an eight-year-old expansion was "an extraordinary achievement."<sup>33</sup> The *Post* article continued by stating that "Federal Reserve Board Chairman

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<sup>31</sup> *Policy and Rules Concerning Rates for Dominant Carriers*, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873, 2894 (1989).

<sup>32</sup> "Worker Productivity Soars."

<sup>33</sup> *Id.*



Alan Greenspan and other economists have linked the recent years' upturn in productivity to massive investments that businesses have made in computers and other technology."

These substantial investments in computers and other new technology by non-telecommunications companies are likely causing a structural change in the national economy such that the productivity differences between telecommunications carriers and the entire economy may well be significantly different today than they were in earlier years. Telecommunications companies may no longer be dramatically more productive than other businesses.

The FCC should not ignore these developments by prescribing a new going-forward X-factor. If the "productivity gap" between telecommunications carriers and other businesses has narrowed, prescription of an X-factor on the presumption of the existence of a "wide productivity gap" would be unjust and unreasonable. The FCC should not, therefore, prescribe a new going-forward X-factor for price cap LECs until completion of the next regularly scheduled price cap performance review. Similarly, the FCC should not prescribe any CPD at this time, for the same reasons.

***The FCC Should Establish a Lower X-Factor for Mid-Sized LECs in Its Next Price Cap Performance Review Proceeding***

In addition, the next price cap performance review should also re-examine the issue of the use of lower X-factor for mid-sized LECs (*i.e.*, those LECs that serve fewer than 2% of the nation's access lines). As noted above, participation in price cap regulation by smaller LECs has been declining. Because they lack the same economies of scale as the Bell Operating Companies ("BOCs"), GTE and Sprint (local), smaller LECs cannot even hope to achieve the same levels of productivity as the largest price cap LECs. This is becoming even more true with the mega-

mergers that are taking place in the industry, *e.g.*, Bell Atlantic, NYNEX, and GTE, Southwestern Bell, Pacific Bell, Southern New England Telephone Company, and Ameritech. Under these circumstances, it would be unjust and unreasonable for the FCC to require smaller LECs, such as Iowa Telecom, to use the same productivity offset as these mega-BOCs.

### **Conclusion**

For the reasons set forth above, the FCC should select an X-factor that is in the mid-range of the reasonable range. That factor should remain in effect until the FCC completes its next regularly scheduled price cap performance review.

Respectfully submitted,

IOWA TELECOMMUNICATIONS  
SERVICES, INC.

by 

James U. Troup  
Robert H. Jackson  
Arter & Hadden LLP  
1801 K Street, N.W., Suite 400K  
Washington, D.C. 20006-1301  
Phone: 202-775-7100  
Fax: 202-857-0172

Its attorneys

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